

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION**

**EVDOKIA NIKOLOVA**  
**Plaintiff,**

**vs.**

**UNIVERSITY OF TEXAS AT AUSTIN**  
**Defendant.**

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**CASE NO. 1:19-cv-00877-RP**

**DECLARATION OF DAVID WEISER**

1. My name is David Weiser. I am of sound mind and capable of making this declaration. I am personally acquainted with the facts herein stated, which are true.

2. I am an attorney in Austin, Texas. I am a Co-Manager of Kator, Parks, Weiser & Wright, P.L.L.C. I received a B.A., Phi Beta Kappa, with highest honors and special honors in Plan II, from the University of Texas at Austin in 1982. I received my law degree from Yale Law School in 1986. At Yale, I served as a Senior Editor on the Yale Law and Policy Review and as a Director of the Moot Court of Appeals. After graduation, from September 1986 to August 1987, I was a law clerk to U.S. District Judge William Wayne Justice, who at the time was Chief Judge of the Eastern District of Texas. From September 1987 to August 1988, I was a “Public Interest Fellow” in Los Angeles, California for the Center For Law in the Public Interest and the law firm of Litt & Stormer. My work in Los Angeles primarily consisted of work on employment discrimination class actions (one on behalf of women employees at Texaco, and another on behalf of black and Hispanic employees at Chevron). After moving to Washington, DC in November 1988, I continued to work on discrimination class actions at the Washington Lawyers’ Committee for Civil Rights Under Law for approximately six months.

3. In August 1989, I became an Associate with Kator, Scott & Heller, a Washington, DC law firm specializing in employment discrimination litigation. (The firm eventually changed its name to Kator, Parks, Weiser & Wright, P.L.L.C., and I will refer hereinafter to the firm by its current name, or the initials “KPWW.”) My work at Kator, Parks, Weiser & Wright from 1989 to 1991 included federal court employment discrimination trials, and approximately ten EEOC and Merit Systems Protection Board administrative hearings. I was also “on brief” for two U.S. Supreme Court certiorari petitions and several state Supreme Court briefs.

4. I moved to Austin, Texas in May 1991, and became Assistant General Counsel to Governor Ann Richards in August of that year. In the Governor’s Office, my responsibilities included providing legal advice to Governor Richards regarding complex civil rights litigation and providing legal advice to state agencies on employment matters. I also served as the Governor’s representative on the Task Force considering amendments to Texas anti-discrimination statutes. (The Texas Legislature later adopted the amendments proposed by this Task Force.) In addition, I was primarily responsible within the Governor’s Office for reviewing all proposed settlements of civil rights lawsuits against the State of Texas.

5. Beginning February 1, 1995, I opened a new law office in Austin, Texas for Kator, Parks, Weiser & Wright. The law firm is principally located in Washington, DC, but my office is in Austin, Texas, and I reside in Austin, Texas. My work with Kator, Parks, Weiser & Wright since 1995 has focused on federal employee rights, with extensive practice before the EEOC, the MSPB, and other federal agencies. I also handle federal court matters. I have personally handled scores of cases on behalf of federal employees in the District of Columbia, Texas, California, and elsewhere. I have written many articles and presented many seminar

talks on the subject of federal employee representation. I have been a frequent contributor of columns on legal matters to FEND, the Federal Employee News Digest. I have served and continue to serve as class counsel in several certified EEOC class actions on behalf of federal employees.

6. I have been admitted to practice law in and before the United States Supreme Court, the District of Columbia, the Federal Circuit, the Fifth Circuit, the Sixth Circuit, the U.S. District Court for the District of Columbia, the Western District of Texas, and the state of Texas.

7. I have received an “AV” rating from the Martindale-Hubbell attorney-ranking service, which is the highest rating provided. From 2014 - 2022, I have been selected for inclusion in the publication “The Best Lawyers in America” for the practice area of “Employment Law – Individuals.” In 2020, that publication named me as the “Lawyer of the Year” in Central Texas for “Employment Law – Individuals.” I have been named as a “Texas Super Lawyer” by the publishers of *Texas Monthly* for the field of employment litigation for more than 15 years, including 2022. In 2007 and 2011, I received an “Excellence in Public Interest Award” from the Texas Law Fellowships. In addition, Kator, Parks, Weiser & Wright, P.L.L.C. was selected for inclusion in the 2017-2022 editions of “Best Law Firms” (published by U.S. News – Best Lawyers).

8. My current hourly rate is \$736 per hour. This is the current hourly rate for me throughout Texas and throughout the United States. This is the hourly rate for me in a recent fee award at the EEOC. This is the hourly rate paid for my time by numerous paying clients, in Texas and elsewhere.

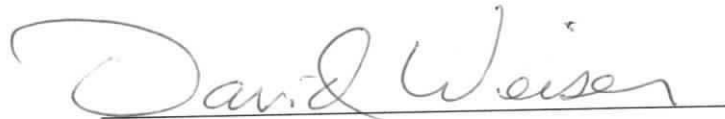
9. Relevant recent fee awards include the following: *Ison v. Dept. of Treasury*, Agency Case No. BFS-20-0073-F (Final Agency Decision on Relief dated January 11, 2021; awarding \$665 per hour for my work on case arising in Austin, Texas); *Leticia W. v. Dept. of Veterans Affairs*, EEOC No. 2019002510 (Final Agency Decision on Supplemental Fees dated November 13, 2020; awarding \$665 per hour for my work on case arising in Austin, Texas); *Leticia W. v. Dept. of Veterans Affairs*, EEOC No. 2019002510 (June 9, 2020) (EEOC awarded my then-current rate of \$613 per hour for case in Austin, Texas).

10. I am knowledgeable regarding hourly rates charged by lawyers in Texas with experience and knowledge similar to mine; my hourly rate is similar to (or lower than) the rates charged by those lawyers. For example, Mr. Brian Sanford, a lawyer in Dallas, Texas, is (like me) a 1986 law school graduate, and Mr. Sanford has routinely been awarded fees at rates above my hourly rate for cases in Texas courts. *See, e.g., Carpenter v. Southwest Housing Dev. Co.*, Cause No. CC-08-2072-E (Dallas County Court at Law No. 5) (\$725 rate awarded to Mr. Sanford in 2018).

11. I am well acquainted with Bob Schmidt and Robert Notzon. I have known both of them for more than fifteen years. I have consulted with each of them on litigation matters, and I am familiar with their respective work representing clients in employment discrimination cases. Bob Schmidt is a leader in the Labor and Employment Section of the Austin Bar Association. Robert Notzon is well-known for his tenacity and zealous representation. On many, many occasions, when I am not in a position to represent a potential client who contacts me regarding a matter in Central Texas, I have recommended that the potential client contact Bob Schmidt and/or Robert Notzon to seek representation.

12. Based on my experience and knowledge of the reasonable market rates for practitioners with the skills, experience, and reputation of Bob Schmidt and Robert Notzon, it is my opinion that the market rate for such attorneys in the Austin Division of the Western District of Texas is in the \$625-\$750 range, with some outliers on either side of that range. Mr. Schmidt's requested rate of \$625 is well within the market rates for similarly qualified counsel. Mr. Notzon's requested rate of \$575 is actually below the market rates for similarly qualified counsel.

Pursuant to 28 U.S.C §1746, I declare under penalty of perjury that the foregoing statements are true and correct. Executed on September 12, 2022.

A handwritten signature in cursive script, reading "David Weiser", written in dark ink. The signature is fluid and stylized, with a large initial "D" and a long, sweeping underline.

David Weiser